

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS,

Defendant.

Civil Action No. 41-1395 (WCC)

~~PROPOSED~~

STIPULATION AND ORDER

In the matter of the Application for the
Determination of Reasonable License Fees for
Performances via Wireless Transmissions and
Internet Transmissions by

AT&T WIRELESS f/k/a CINGULAR WIRELESS

IT IS HEREBY STIPULATED AND AGREED, by and among the American Society of Composers, Authors and Publishers ("ASCAP") and AT&T Mobility LLC f/k/a Cingular Wireless ("AT&T")¹ (collectively, the "Parties") that:

1. On or before **March 20, 2009**, the parties shall complete all previously noticed AT&T fact witnesses for depositions;
2. On or before **March 20, 2009**, the parties shall complete all previously noticed third party depositions;
3. The Parties shall complete fact discovery by **April 17, 2009**;

¹ AT&T has advised ASCAP that AT&T Mobility LLC is the successor in interest to Cingular Wireless, rather than AT&T Wireless, as indicated in the caption. ASCAP will seek permission of the court to update the caption accordingly once it has verified this information.

4. On or before **April 17, 2009**, the Parties shall disclose their experts in accordance with Rule 26 of the Federal Rules of Civil Procedure;

5. On or before **May 7, 2009**, ASCAP shall serve any initial expert reports on AT&T;

6. On or before **June 4, 2009**, AT&T shall serve any initial or rebuttal expert reports on ASCAP;

7. On or before **June 25, 2009**, ASCAP shall serve any expert rebuttal reports on AT&T;

8. On or before **July 9, 2009**, AT&T shall serve any expert rebuttal reports on ASCAP;

9. The Parties shall complete expert discovery by **July 31, 2009**;

10. The Parties shall file any dispositive motions with the Court on or before **August 14, 2009**, including but not limited to AT&T's motion for summary judgment concerning ringtones and any other dispositive motions approved by the Court prior to this date;

11. Dispositive motion response briefs shall be filed by **September 4, 2009**;

12. Dispositive motion reply briefs shall be filed by **September 11, 2009**;

13. The Parties shall appear for a pretrial conference on **September 16, 2009**, at ²⁵10:15
a.m.

Nothing in this Scheduling Order shall prevent either party from asking the Court to set additional dates or otherwise modify this Scheduling Order.

(Signature Pages Follow.)

The parties, by their counsel, hereby consent to the foregoing Order:

Dated: New York, New York

February 2, 2009

Mark

LOVELLS LLP



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*Attorneys for American Society of
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Dated: New York, New York

February 22, 2009

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*Attorneys for Applicant AT&T Mobility
LLC*

SO ORDERED.

Dated: White Plains, New York
~~February~~ __, 2009
March 3,



Sr. United States District Judge